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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/443,233	11/18/1999	JOHN A. HELGENBERG	TN167	6933

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/442,233

Applicant(s)  
Helgenberg

Examiner  
Gary Estremsky

Art Unit  
3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 15, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) 9-13, 16-18, 20, and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 14, 15, and 19 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

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## **DETAILED ACTION**

### ***Remarks***

1. Applicant's detailed response and remarks are appreciated. The examiner agrees that claims 1, 14, and 19 read on the elected embodiment, referenced to as Group I and also that those claims appear to be generic to the other two noted Groups or embodiments of the invention and it is also agreed that claims 1-8, 14, 15, and 19 all read on the elected embodiment of the invention.

However claim 20 includes limitation for structure not disclosed as part of the first embodiment, i.e., "a release member attached to at least one of said radial springs". While the limitation may be generic to either of the non-elected embodiments it does not read on the elected embodiment.

Accordingly, claims 9-13, 16-18, 20, and 21 are withdrawn from further consideration. See MPEP 821. An action on elected claims 1-8, 14, 15, and 19 follows herein below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear which "said surface" of claim 1 is referred to whereby the scope of the claim is rendered indefinite.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. As best understood, claims 1-3, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,255,217 to Hill.

Hill '217 teaches Applicant's claim limitations including : a "stud" - 13, "extending outwardly from one of said structures" - the piston's rod which is not illustrated but would be recognized by one of ordinary skill in the art as being an inherent teaching of the reference, a "resilient member,..., having a substantially toroidal configuration" - including 20.

As regards claim 2, limitation of "frame" is broad and has not patentably defined over the structure illustrated by the reference which reads on broad, generic recitation. The law of anticipation requires that a distinction be made between the invention described or taught and the

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invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

6. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,942,905 to Wootton.

Wootton '905 teaches Applicant's claim limitations including : a "stud" - , a "resilient member" - including 21.

As regards limitation of "radial spring", one of ordinary skill in the art would recognize after reading the disclosure that art-accepted meaning and literal interpretation of the term only requires an element exhibiting spring characteristics in a radial direction and the limitation has not patentably defined over the structure of the reference. If Applicant desires more specific interpretation of the term, it is suggested that the claim be amended to include more specific structural description of the disclosed spring. For example, the disclosed spring of the present invention may be more specifically described as a coil spring formed into a toroidal shape or an annular arrangement of a coil spring, etc..

7. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,151,284 to Tinnerman

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Tinnerman '284 teaches Applicant's claim limitations including : a "stud" - 20, a "resilient member" - 10.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 2,942,905 to Wootton in view of U.S. Pat. No. 1,866,326 to Stevens.

Wootton '905 teaches all claim limitations except for there being a plurality of the disclosed latches. However, it is old and well known in the art to provide two structures with two releasable latches to more securely retain the structures together. Stevens '326 is relied upon for its showing of an arrangement of a plurality of releasable latches on a cabinet door, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide two latches such as the one taught by Wootton '905 on two structures to be fastened together instead of only one in order to more securely fasten the structures where one of ordinary skill in the art would have more than a reasonable expectation of success and the use of two such latches would not otherwise affect the function of the disclosed latch.

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*Allowable Subject Matter*

10. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The examiner first notes that the term “substantially toroidal configuration” has been interpreted as requiring a substantially donut-shaped “resilient member” differentiating the claimed invention from many of the other circumferentially-bent wire spring shapes. However, it also noted that it is well settled that every limitation of a claim must be considered during examination. That is particularly true in making the above indication of allowable subject matter where additional limitations such as “an outer surface contacting said surface of said structure to prevent movement of said outer surface radially outwardly” have not been overlooked as to their contribution towards defining the invention. In that respect, the prior art does not teach or make obvious all limitations where one of the claimed structures is a “door”.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Pat. No. 2,615,735 to Heimann.
- b. U.S. Pat. No. 3,791,096 to Epperlein.

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12. Submission of your response by facsimile transmission is encouraged. Group 3627's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_  
\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is (703) 308 - 0494. The examiner can normally be reached on M - Th from 730 am to 600 pm.



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14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (703) 308-2688. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

GWE

February 4, 2002

A handwritten signature in black ink, appearing to read 'G. Estremsky', written in a cursive style.

**GARY ESTREMSKY  
PRIMARY EXAMINER**